

REMARKS

The following remarks are responsive to the October 22, 2008 Office Action. Claims 1-9 and 11-49 remain as originally filed. Thus, Claims 1-9 and 11-49 are presented for further consideration.

Response to Rejection of Claims 1-9 and 11-49 Under 35 U.S.C. § 103(a)

In the October 22, 2008 Office Action, the Examiner rejects Claims 1-9 and 11-49 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0152117 of Cristofalo et al. ("Cristofalo") in view of U.S. Patent Application Publication No. 2006/0212904 ("Klarfeld"). Applicants respectfully submit that Claims 1-9 and 11-49 are patentably distinguished over Cristofalo in view of Klarfeld for at least the following reasons.

Claims 1-9 and 11-37

Applicants submit that Claim 1 includes features which are not disclosed or suggested by the combination of Cristofalo and Klarfeld, so that Claim 1 is patentable over the combination of Cristofalo and Klarfeld. Cristofalo and Klarfeld do not disclose or suggest "a preference determination module coupled to the storage subsystem, the preference determination module responsive to user input and to the metadata to generate one or more user profiles, each user profile indicative of characteristic viewing preferences of a corresponding user, **the user profile comprising an interest parameter indicative of an estimated time interval during which the corresponding user is predicted to continue viewing the audiovisual advertisement,**" (emphasis added) as recited by Claim 1. In particular, Cristofalo only discloses profiles indicative of subject matter of interest to the user and Klarfeld only discloses demographic profiles of the viewers. For example, Cristofalo discloses a user's profile based on being a Kansas state fan (*See, e.g.*, paragraph [0050]); and explains that the user can receive supplemental content (*e.g.*, audio broadcast) that is tailored to the user's subject matter interests. Klarfeld discloses using the demographic profiles of the viewers (*See, e.g.*, paragraph [240]) to display particular advertisements to the desired target audience. Neither Cristofalo nor Klarfeld disclose or suggest that their profiles can be used to estimate a time interval during which the viewer is predicted to continue viewing the advertisement. Therefore, neither Cristofalo nor Klarfeld disclose or suggest "an interest parameter indicative of an estimated time interval during

which the corresponding user is predicted to continue viewing the audio visual advertisement,” as recited by Claim 1.

Furthermore, the Examiner acknowledges that Cristofalo does not teach that (i) the metadata is indicative of the length of the audiovisual advertising segment and (ii) retrieving a plurality of stored audio visual advertising segments from the storage subsystem is based on the lengths of the stored audiovisual advertising segments. While Klarfeld discloses that the preference agent may select stored ads of appropriate length to insert in the allotted time slot (See, e.g., paragraph [0241]), Klarfeld does not disclose or suggest selecting ads of appropriate length based on the “estimated time interval during which the corresponding user is predicted to continue viewing the audio visual advertisement,” as recited by Claim 1. Therefore, the combination of Cristofalo and Klarfeld do not disclose or suggest “selecting and retrieving a plurality of stored audiovisual advertising segments from the storage subsystem based on the lengths of the stored audiovisual advertising segments in response to the interest parameter corresponding to the user,” as recited by Claim 1.

For at least the reason that the combination of Cristofalo and Klarfeld does not disclose or suggest every feature recited by Claim 1, Applicants submit that Claim 1 is patentably distinguished over Cristofalo in view of Klarfeld. Each of Claims 2-9 and 11-37, depends either directly or indirectly from Claim 1, so each of Claims 2-9 and 11-37 includes all the features of Claim 1 as well as other features of particular utility. Therefore, Claims 2-9 and 11-37 are patentably distinguished over Cristofalo in view of Klarfeld for at least the reasons set forth above with respect to Claim 1. Applicants respectfully request that the Examiner withdraw the rejection of Claims 1-9 and 11-37 and pass these claims to allowance.

Claims 38-49

Claim 38 is patentably distinguished over the combination of Cristofalo and Klarfeld at least for reasons similar to those set forth above with respect to the patentability of Claim 1. For at least the reason that the combination of Cristofalo and Klarfeld does not disclose or suggest all the features recited by Claim 38, Applicants submit that Claim 38 is patentably distinguished over the combination of Cristofalo and Klarfeld. Each of Claims 39-49 depends either directly or indirectly from Claim 38, so each of Claims 39-49 includes all the features of Claim 38 as well as other features of particular utility. Therefore, Claims 39-49 are patentably distinguished over

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the combination of Cristofalo and Klarfeld for at least the reasons set forth above with respect to Claim 38. Applicants respectfully request that the Examiner withdraw the rejection of Claims 38-49 and pass these claims to allowance.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Summary

For at least the foregoing reasons, Applicants submit that Claims 1-9 and 11-49 are in condition for allowance, and Applicants respectfully request such action.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: _____

1/9/09

By: _____

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